

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
TYLER DIVISION

LYNN KIRK, TRUSTEE FOR THE	§	
FRANK KIRK & LYNN KIRK	§	
REVOCABLE TRUST	§	
	§	
<i>Plaintiff,</i>		
v.	§	CIVIL ACTION NO.: 6:17-cv-588
	§	
SENTINEL INSURANCE COMPANY,	§	
LTD.,	§	
	§	
<i>Defendant.</i>	§	

NOTICE OF REMOVAL

Defendant Sentinel Insurance Company ("Sentinel" or "Defendant") files this Notice of Removal and, in support thereof, would show the Court as follows:

1. On August 31, 2017, Plaintiff Lynn Kirk, Trustee for the Frank Kirk and Lynn Kirk Revocable Trust ("Plaintiff") filed her Original Petition (the "Petition") in Cause Number 2017-530, in the 402nd District Court of Wood County, Texas. Defendant filed its answer in the State Court on October 12, 2017.

2. Pursuant to 28 U.S.C. § 1446(a) attached hereto are copies of all process, pleadings and orders served upon Defendant and all pleadings and orders in the removed case. In particular: (i) an index of the matters filed herewith is attached as Exhibit A; (ii) a copy of the citation and executed service return is attached as Exhibit B; (iii) a copy of the Plaintiff's petition is attached as Exhibit C; (iv) a copy of Defendant's

answer is attached as Exhibit D; (v) a copy of the docket sheet in the state court action is attached as Exhibit E; and (vi) a list of all counsel of record, including addresses, phone numbers, and the parties represented is attached as Exhibit F.

3. This notice of removal is timely filed under 28 U.S.C. §1446(b) because it is filed within thirty days after Defendant Sentinel first received a copy of a paper from which it could first be ascertained that the case is one which is or has become removable; *i.e.*, Plaintiff's Original Petition.

4. The claims asserted against Defendants are civil actions over which this Court has original jurisdiction pursuant to 28 U.S.C. § 1332. At the time this action was commenced, Plaintiff was and still is a citizen of the State of California because she is an individual resident of the State of California.¹ Defendant is a Connecticut corporation and, therefore, a citizen of the state of Connecticut for purposes of diversity.

5. The amount in controversy exceeds \$100,000 based on Plaintiff's state court Petition, specifically at ¶21.

6. The one-year statute of limitation on removal of diversity cases imposed by 28 U.S.C. § 1446(b) does not prevent removal because this action was commenced less than one year ago.

7. Notice to State Court. Pursuant to 28 U.S.C. § 1446(d), Defendant intends to serve written notice of this removal on the state court promptly after filing this Notice of Removal.

¹ In the insurance policy the subject of this lawsuit, the named insured, Frank Kirk & Lynn Kirk Revocable Trust, was listed with a mailing address at 1524 ½ State St., Santa Barbara, CA 93101. The Wood County property records for the taxable year 2015 also lists Lynn Kirk Sole Trustee of Frank & Lynn Kirk Revocable Trust with a mailing address as 1524 ½ State St., Santa Barbara, CA 93101.

FOR THESE REASONS, Defendant hereby effectuates removal of this cause to this Court.

Respectfully submitted,

/s/ Brittan L. Buchanan

Brittan L. Buchanan

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ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

I hereby certify that on October 17, 2017, a true and complete copy of the above and foregoing instrument has been served via the electronic filing manager on Plaintiff's counsel of record as follows:

Scott M. Keller

State Bar No.: 11198350

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ATTORNEY FOR PLAINTIFF

/s/ Brittan L. Buchanan

Brittan L. Buchanan